IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

Crl.MC.No. 2174 of 2006()

CC.541/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM
(SPECIAL COURT FOR MARK LIST CASES) .....

PETITIONER: ACCUSED

SHABEER, MANGULAM HOUSE,
MUTTADA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT AND STATE
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1. INDUS MOTORS CO.LTD.,T.C.2/1418,MEDICAL COLLEGE ROAD,PATTOM PO,TVM. ORIGINALLY REP. BY SURESH KUMAR.P.T.,ASST.FINANCE MANAGER,PRESENTLY REP.BY S.P.BIJULAL,S/O.I.STEPHEN,ASST.WORKSMANAGER M/S.INDUS MOTOR CO.LTD.,A BODY CORPORATE HAVING ITS REGISTERED OFFICE AT CALICUT & SALES AND SERVICE CENTRE AND WORKSHOP AT T.C.NO.24/885, METTUKKADA P.O., THYCAUD,THIRUVANANTHAPURAM.

2. STATE REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.BIJU M.JOHN FOR R1
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2174 of 2006

Dated this the 30th day of January 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the Negotiable Instruments Act. The cheque is for Rs.5,00,000/-. In addition to the substantive sentence of imprisonment, the petitioner has been directed to pay ten percentage of the compensation amount (10% of 5,00,000/- i.e. Rs.50,000/-) as condition for suspension of sentence. The petitioner has come to this court complaining about the condition imposed. There is no contention before me that the learned Sessions Judge lacks jurisdictional competence to impose a direction that part of the fine/compensation must be deposited as condition for suspension.

2. What then is the grievance? It is submitted that the condition imposed is harsh. Nothing has been pointed out to show that the petitioner has such a good case to be advanced in appeal that any direction to pay any portion of the amount would be unjust and unreasonable. In the absence of even such a contention before me, I am unable to accept the request to

interfere with the condition imposed. However, I am satisfied that the petitioner can be granted time till 01/03/2007 to pay the amount. If the petitioner is not able to raise the amount, he may, within a period of one week from this date file an application before the learned Sessions Judge to get the appeal heard and disposed of prior to 01/03/2007. The learned Sessions Judge shall pass appropriate orders on such application.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006